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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,256	07/30/2003	Malcolm Woods	RD8345USNA	9399

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WILMINGTON, DE 19805

EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,256

Applicant(s)

WOODS, MALCOLM

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/29/03.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. See MPEP 2173.05 (r). Claims 2-9 are rejected for their dependency on claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinjou et al., US 4,728,394.

The patent issued to Shinjou et al., teaches a semipermeable membrane support having an air permeability ranging from 5-50 cc/cm²/sec (Abstract). Shinjou et al., teaches forming the web from conjugate fibers, using hot air to self-bond and further calendaring to firmly bond the web (Abstract). With regard to claim 3, Shinjou et al., teaches in example 2, a web having a basis weight of 100 g/m² (Column 6, 49-50). Suitable uses include filtration (Column 1, 5-15).

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Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 8-9 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nakajima et al., US 6,207,600 B1.

The patent issued to Nakajima et al., teaches forming a non-woven fabric from fibers made from polyethylene (Abstract, Title and Column 2, 55-57). With regard to the calendaring limitations, Nakajima et al., teaches in examples 4 and 6 forming the non-woven fabric with calendaring (Column 15, 55-60 and Column 17, 31-35). Nakajima et al., teaches forming a non-woven fabric having a basis weight ranging from 5-2000 grams per square meter depending on desired end use (Column 9, 43-47). With regard to the bi-component fiber limitations, Nakajima et al., teaches forming bi-component fibers with the novel polypropylene and other thermoplastic resins such as polyester or polyamide based resins. Nakajima et al., specifically teaches forming bi-component fibers

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from polyethylene terephthalate, Nylon 6 or Nylon 66 (Column 10, 1-15). With regard to claim 6, Nikajima et al., teaches adding various additives to the polypropylene resin such as UV absorbing agents (Column 8, 49-55). With regard to claim 9, Nikajima et al., teaches forming various clothing, medical and/or disposable garments (Column 10, 16-34).

Although, Nikajima et al., does not explicitly teach the claimed permeability property it is reasonable to presume that said property is inherent to non-woven fabric formed by Nikajima et al., Support for said presumption is found in the use of like materials such as synthetic bi-component filaments and the use of like processes such as calendaring, which result in the claimed permeability property. The burden is shifted to Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed permeability property would have obviously been present once the non-woven fabric of Nikajima et al., is provided. *In re Best*,¹⁹⁵ USPQ 433

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al., US 6,207,600 B1 in view of JP 05148703 A.

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Nakajima et al., fails to specifically teach the claimed ultraviolet absorbing agent, however, the published Japanese abstract teaches a cloth comprising conjugate fibers containing 1% by weight of the ultraviolet absorber titanium oxide (Abstract).

Therefore, motivated by the desire to provide a fabric with protection from ultraviolet rays it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the bi-component filaments taught by Nakajima et al., with the amount of titanium oxide ultraviolet absorbing agent taught in the published Japanese abstract.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2003/0035951 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 31, 2005

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